

In the Matter of Merchant Mariner's Document No: Z-58236-D2
Issued to: ALFRED F. E. ANDERSON

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

473

ALFRED F. E. ANDERSON

This appeal comes before me by virtue of Title 46 United States Code 239(g) and 46 Code of Federal Regulations Sec. 137.11-1.

On 1 September, 1950, an Examiner of the United States Coast Guard at New York City suspended Merchant Mariner's Document No. Z-58236-D-2 issued to Alfred F. E. Anderson upon finding him guilty of "misconduct" based upon eight specifications alleging in substance, that while serving as messman on board the American S.S. T.J. STEVENSON, under authority of the document above described, during July and August, 1950, he wrongfully failed to perform duties because of intoxication, he wrongfully was absent from the vessel, he wrongfully possessed intoxicating liquor on board the vessel and used abusive language to the Chief Steward. Another specification alleging assault was found "not proved."

At the hearing, Appellant was given a full explanation of the nature of the proceedings and the possible consequences. Although advised of his right to be represented by counsel of his own selection, he elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specifications No. 2,4,7 and 8; and a plea of "not guilty" to

specifications No. 1,3,5,6 and 9.

The Investigating Officer introduced in evidence the testimony of the Master and Steward of the STEVENSON, and certified copies of two log entries.

In defense, Appellant testified under oath in his own behalf.

At the conclusion of the hearing, the Examiner found the charge "proved" by proof of specifications No. 1,2,3,4,5,7,8 and 9, and entered an order suspending Merchant Mariner's Document No. Z-58236-D2, and all other documents, certificates and licenses issued to Appellant, for a period of six months; three months outright suspension and three months suspension on nine months probation.

From that order, this appeal has been taken, and it is requested that the period of outright suspension be reduced and a longer probationary period imposed to enable Appellant to lend financial assistance to his Aunt.

Based upon my examination of the Record submitted, I hereby make the following

FINDINGS OF FACT

On a foreign voyage covering all dates contained herein, Appellant was serving as a messman on board the American S.S. T.J.STEVENSON, under authority of Merchant Mariner's Document No. Z-58236-D2.

On 12 July, 1950, while said vessel was at Genoa, Appellant did not perform his duties on board the vessel and he was absent from the ship, without authority, part of this same day. Although Appellant paid one of the cooks for doing his work, this was not done pursuant to a pre-arranged agreement with the permission of the steward but was done after Appellant had returned to the ship from his unauthorized leave.

On 21 July, 1950, while the STEVENSON was at Trieste, Appellant purchased a bottle of liquor from a peddler aboard said vessel and retained possession of this liquor in violation of the

ship's articles. Appellant consumed this or other liquor to such an extent that he was unable to perform his duties. Upon being reproached by the steward, Appellant addressed the steward in foul and abusive language.

Again, on 27 July, 1950, while at Istanbul, and on 7 and 8 August, 1950, while at Kalamati, Appellant became incapacitated from performing his duties due to intoxication. On the latter date, he also left the vessel without authority to go ashore.

Appellant has been going to sea for 24 years. His document was suspended for one month in 1944 for failure to join and he was admonished on 22 June, 1950, for absence from his duties. There is no record of any additional disciplinary action having been taken against Appellant.

OPINION

The record shows that on at least four occasions within less than three weeks Appellant failed to perform his routine duties on board the ship as a result of indulging in intoxicating beverages. As pointed out by the Examiner, seamen assume the responsibility of performing certain duties when they sign articles for a voyage. This is a contractual obligation, the breach of which is misconduct in itself as well as tending to lower the high degree of discipline which must be maintained on ships at sea, particularly when they are on a foreign voyage. If a number of seamen concertedly assumed Appellant's attitude, the seaworthiness of the vessel would be seriously impaired.

CONCLUSION

For these reasons alone, it is my opinion that the Order imposed was extremely lenient. The additional acts of misconduct might well have merited the imposition of a more severe suspension but I am restrained from taking such action on appeal.

ORDER

The Order of the Examiner dated 1 September, 1950, should be, and it is, AFFIRMED.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 30th day of November, 1950.

***** END OF DECISION NO. 473 *****

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